



FILED

Nov 06 2014, 8:53 am

Kevin L Smith

CLERK

of the supreme court,
court of appeals and
tax court

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

IAN McLEAN
Deputy Attorney General
Indianapolis, Indiana

VICTOR KEEYLEN,
Appellant-Defendant,
vs.
STATE OF INDIANA,
Appellee-Plaintiff.

)
)
)
)
)
)
)
)
)

No. 49A05-1308-CR-419

November 6, 2014

MATHIAS, Judge

Victor Keeylen (“Keeylen”) has filed a petition for rehearing of our opinion affirming the Marion Superior Court’s denial of his motion to suppress. We grant Keeylen’s petition to clarify one factual issue, but otherwise affirm our opinion in all respects.

In our original opinion, we stated that “Detective Graber submitted the probable cause affidavit to the very same trial court and trial judge who had been authorizing the GPS searches for over a year. It is unlikely that he thought that the omission of this information would mislead the trial judge.” Keeylen v. State, 14 N.E.3d 865, 877 (Ind. Ct. App. 2014).

In his petition for rehearing, Keeylen notes that the judicial officer who issued the search warrant did not issue *all* of the orders authorizing the GPS tracking. However, the Commissioner who issued the warrant did issue the final order authorizing the GPS tracking. Cf. Exhibits Vol., Defendant’s Ex. A1, p. 3, B11, p. 11.¹ And the last four authorization orders were issued by this very same court, Criminal Division 11.² Id., Defendant’s Ex. B8 – B11.

The point we made in our original opinion remains valid: it is unlikely that Detective Graber was attempting to mislead the judicial officer issuing the search warrant by omitting information regarding the GPS tracking because the same judicial officer

¹ This judicial officer appears to be the Commissioner for Marion Superior Court, Criminal Division 11. See id.

² The previous seven authorization orders were issued by Marion Superior Court, Criminal Division 20, the court where Keeylen was tried and convicted. Id., Defendant’s Ex. B1 – B10.

who issued the search warrant had previously authorized the GPS tracking and was thus well aware of the GPS tracking.

Aside from this factual clarification, we affirm our original opinion in all respects.

FRIEDLANDER, J., and PYLE, J., concur.